

**PROCEDURES APPLICABLE TO THE COMPLETION, RETURN AND  
TABULATION OF ASSESSMENT BALLOTS  
NIPOMO COMMUNITY SERVICES DISTRICT MAINTENANCE  
DISTRICT NO. 1**

**SECTION 1. Intent.** It is the Board of Director's intent to adopt guidelines and procedures applicable to the completion, return and tabulation of assessment ballots that are in addition to, consistent with, and in compliance with Article XIIC and XIID of the California Constitution and with the Proposition 218 Omnibus Implementation Act.

**SECTION 2. Severability.** If any provision of these guidelines and procedures or the application thereof to any person or circumstances is held invalid, the remainder of these guidelines and procedures or application of such provision to other persons or circumstances shall not be affected.

**SECTION 3. Conflict with Existing Law.** If any provision in these guidelines and procedures conflicts with the provisions of the California Constitution, Streets and Highways Code, Government Code, or other California Codes, then such provision shall automatically be superseded by the provisions of said Constitution and/or Code until such time as these guidelines and procedures can be revised.

**SECTION 4. Procedures.** The following guidelines and procedures are applicable to the completion, return and tabulation of assessment ballots required by Article XIID section 4 of the California Constitution:

**A. Notice.** The following guidelines shall apply to giving notice of the assessment and hearing to property owners:

- 1 The record owner(s) of each parcel to be assessed shall be determined from the last equalized secured property tax assessment roll as of the date the District sets the assessment hearing. If the assessment roll indicates more than one owner, then each owner shall receive notice.
- 2 The notice shall be sent to the record owner(s), at the address that appears on the assessment roll, at least forty-five (45) days prior to the date set for the public hearing on the assessment. The notice shall be sent through a mailing, postage prepaid, deposited in the United States Postal Service and shall be deemed given when so deposited.

- 3 If the U.S. Postal Service returns any notice to the District as undeliverable and provides the District with a forwarding address, the District shall mail the notice to the forwarding address.
- 4 The notice provided by this section shall be in accordance with Government Code section 53753(b) and (c) and shall supersede and be in lieu of any other statutes requiring notice to levy or increase an assessment, including but not limited to, the notice required by the state statute authorizing the assessment and Government Code section 54954.6.
- 5 Failure of any person to receive notice shall not invalidate the proceedings.
- 6 The cost of providing notice may be included as a cost of the assessment district.
- 7 On the face of the envelope mailed to the record owner(s), in which the notice and ballot are enclosed, there shall appear in substantially the following form in no smaller than 16-point bold type: "OFFICIAL BALLOT ENCLOSED".

**B. Assessment Ballot.** The following guidelines shall apply to the assessment ballot:

1. The ballot required by Article XIID, section 4(d) of the California Constitution shall be included in the forty-five (45) day notice referenced in section 4A above. The ballot shall comply with the requirements of Government Code section 53753(b) and (c).
2. All assessment ballots must be returned either by mail or by hand delivery prior to the conclusion of the public input portion of the public hearing. Regardless of the method of delivery, assessment ballots must be received either by mail or by hand delivery prior to the conclusion of the public input portion of the public hearing.
3. The Assessment Engineer shall issue additional assessment ballots to "additional property owners" whose name(s) does not appear on the last equalized secured property tax assessment roll, for the County of San Luis Obispo. These additional assessment ballots shall be clearly marked as "additional ballots" and shall be issued upon presentation of adequate information to the satisfaction of the Assessment Engineer that the requesting party is an additional owner of record. The Assessment Engineer shall keep records of additional ballots issued to property owners.
4. Each assessment ballots shall be in a form which conceals its contents once it is sealed by the person submitting the assessment ballot.

5. Each ballot must be signed under penalty of perjury. In the event that more than one of the record owners of a parcel submits an assessment ballot, the amount of the proposed assessment to be imposed upon the parcel shall be allocated to each ballot submitted in proportion to the respective record ownership interest or, if the ownership interests are not shown on the record, as established to the satisfaction of the Assessment Engineer by documentation provided by the record owners. However, if only one owner of record votes, the District shall tabulate that vote on behalf of the entire parcel.

6. “Authorized Representatives” may sign assessment ballots on behalf of a record owner. Authorized Representative(s) includes:

- a. Designated trustees, legal guardians, probate estate executors or administrators, court-appointed or other legal representatives, or
- b. Property managers, agents, and representatives with written and signed authorization from a record owner.

7. Authorized Representative who sign an assessment ballot must attach evidence of the authorization to the ballot.

6.8. Because assessments are levied on property and tenants are not directly liable to the District for payment of assessments, a tenant of real property shall not have the power or authority to submit an assessment ballot.

7.9. Only ballots with original signatures, not photocopies, will be accepted. Ballots will not be accepted via e-mail or fax.

8.10. The Assessment Engineer shall issue a duplicate ballots to any property owner; whose original ballot was lost, destroyed, or who desires to withdraw a previously submitted ballot. The duplicate ballot shall be issued upon presentation of adequate information to the satisfaction of the Assessment Engineer that the requesting party is an owner of record of the affected property. Such ballots shall be clearly marked as “duplicate ballots” and shall include sufficient information for the impartial person to verify the location and ownership of the property in question and the identity of the individual casting the ballot in order to verify its authenticity.

9.11. An assessment ballot proceeding is not an election.

10.12. Assessment ballots shall remain sealed until the tabulation of ballots commences at the conclusion of the public hearing. An assessment ballot may be submitted, or changed, or withdrawn by the record owner who submitted the ballot prior to the conclusion of the public testimony on the proposed assessment at the public hearing.

~~11.13.~~ Prior to the public hearing, neither the assessment ballot nor the envelope in which it is submitted shall be treated as a public record, pursuant to Government Code section 6254(c) and any other applicable law, in order to prevent potential unwarranted invasions of the submitters' privacy and to protect the integrity of the balloting process.

~~12.14.~~ During and after the tabulation, the assessment ballots shall be treated as disclosable public records, as defined in Government Code section 6252, and equally available for inspection (e.g., by the proponents or the opponents of the proposed assessment), pursuant to Government Code section 53750(e)(1).

**C. Tabulating Ballots.** The following guidelines shall apply to tabulating assessment ballots:

1. The District Secretary/Clerk (or an impartial person designated by the Board of Directors pursuant to paragraph 2 below) shall determine the validity of all ballots. All ballots shall be accepted as valid except those in the following categories:

- a. A photocopy of a ballot which does not contain an original signature;
- b. An unsigned ballot;
- c. A ballot which lacks an identifiable “yes” or “no” vote;
- d. A ballot which appears to be tampered with or otherwise invalid based upon its appearance or method of delivery or other circumstances;
- e. A ballot which is submitted on a form which is different than the form of ballot provided by the District;
- f. A ballot submitted to the District via e-mail or fax;
- g. A ballot not signed under penalty of perjury by a record owner or Authorized Representative;-
- h. Ballots signed by an Authorized Representative without the authorization attached to the ballot

The District Secretary/Clerk (or a designated person) decision, after consultation with District Legal Counsel that a ballot is invalid, shall be final and may not be appealed to the District Board of Directors.

2. An impartial person designated by the Board of Directors who does not have a vested interest in the outcome of the proposed assessment shall tabulate the

assessment ballots submitted, and not withdrawn, in support or opposition to the proposed assessment. The impartial person may include the District Secretary/Clerk.

3. A property owner's failure to receive an assessment ballot shall not invalidate the proceedings.

4. In the event of a dispute regarding whether the signer of a ballot is the owner of the parcel to which the ballot applies, the Assessment Engineer will make such determination from the official County Assessor records and any evidence of ownership submitted to the District prior to the conclusion of the public hearing. The Assessment Engineer will be under no duty to obtain or consider any other evidence as to ownership of property and its determination of ownership will be final and conclusive.

5. A property owner who has submitted an assessment ballot may withdraw the ballot and submit a new or changed ballot up until the conclusion of the public input portion of the public hearing on the assessment. Assessment ballots may be withdrawn and newer changed ballots submitted up until the conclusion of the public input portion of the public hearing on the assessment.

#### **D. Public Hearing.**

1. At the public hearing, the District Board of Directors shall hear all public testimony regarding the proposed assessment and accept ballots until the close of the public hearing, which hearing may be continued from time to time.

2. The Board of Directors may impose reasonable time limits on both the length of the entire hearing and, at the discretion of the presiding officer, the length of each speaker's testimony.

3. At the conclusion of the hearing the impartial person shall complete tabulation of the ballots, including those received during the public hearing.

4. If the District uses District personnel for ballot tabulation, or if the District contracts with a vendor for the ballot tabulation and the vendor or its affiliates participated in the research, design, engineering, public education, or promotion of the assessment, the ballots shall be unsealed and tabulated in public view at the conclusion of the hearing so as to permit all interested persons to meaningfully monitor the accuracy of the tabulation process.

5. The District may, if necessary, continue tabulation to a different time or location accessible to the public provided the District Board announces the time and location at the hearing.

6. If according to the final tabulation of the ballots, ballots submitted against the assessment exceed the ballots submitted in favor of the assessment, weighted according to the proportional financial obligation of each affected property, a “majority protest” exists and the District Board of Directors shall not impose or increase the assessment.

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